

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
HARRISONBURG DIVISION**

JENNIFER BERRY BROWN,	)	
	)	
Plaintiff,	)	
	)	Case No.: 5:21cv00001
v.	)	
	)	
TOWN OF FRONT ROYAL, VIRGINIA,	)	
	)	
Defendant.	)	

**DEFENDANT’S MEMORANDUM IN SUPPORT OF MOTION TO EXTEND TIME**

COMES NOW defendant, Town of Front Royal, Virginia (“the Town”), by counsel, pursuant to Rule 6(b)(1)(A) of the Federal Rules of Civil Procedure, and files its Memorandum in Support of Motion to Extend Time, as follows:

On April 6, 2022, the court held a status conference in this matter to discuss how the matter would proceed in light of the fact that Judge Joel C. Hoppe issued a Memorandum Opinion and Order on March 31, 2022, which ruled on a motion which had been filed in November, 2021. It was decided that objections would be filed pursuant to Rule 72(a) by April 14, 2022, and responses to the objections would be due on April 21, 2022. The court inquired whether the parties wanted a hearing on the matter or whether the court could decide the matter on the papers. Counsel for defendant indicated that she wanted either to have a hearing or an opportunity to file a reply to any response to the objections. The court opted for the former, and directed counsel to contact the court to set a hearing, which counsel did on April 6, 2022. Very shortly before the scheduled hearing on April 25, 2022, counsel were notified that the court had developed a conflict with the hearing date. Two alternate dates were offered, but a mutually agreeable date was not available. Accordingly, counsel were notified that the matter would be decided on the pleadings, which at

that time consisted of the objections and the reply to the objections. This was exactly what counsel for defendant had opposed – no opportunity to file a response to the reply to the objections and no opportunity to be heard.

On Friday, April 22, 2022, after being advised of the above, an oral order was issued allowing defendant until 5:00 p.m. on Tuesday, April 26, 2022, to file a reply to plaintiff's response to defendant's objections to Judge Hoppe's Order. While defendant and its counsel appreciates the opportunity to file a reply – and wants that opportunity – the court has allowed insufficient time for a reply to be filed. Counsel for defendant spent the weekend of April 23-24, 2022 preparing for a trial on April 26, 2022, after finishing a four day trial, April 18-21, 2022. Counsel then spent April 25, 2022 preparing witnesses for trial, and will be in trial on April 26, 2022. While no one else has done any work on this file, defense counsel had hoped she might be able to garner some assistance from another attorney in her office. However, one of the two attorneys whom she would typically have turned to for help became sick with COVID on Friday, and the other left on Friday to travel home to be with her mother who is in hospice.

Defendant would like an opportunity to file a response to the reply to the objections, and would like to be provided the same amount of time to file such a pleading as plaintiff was permitted to file her reply to defendant's objections; i.e. seven days (until April 28, 2022). Defendant asks for this opportunity, and seeks this relief pursuant to Rule 6(b)(1)(A).

WHEREFORE, the foregoing considered, defendant, Town of Front Royal, Virginia, by counsel, requests that the court grant its Motion to Extend Time.

Respectfully submitted,  
**TOWN OF FRONT ROYAL, VIRGINIA**  
By Counsel

\_\_\_\_\_/s/\_\_\_\_\_  
Heather K. Bardot, Esquire  
VSB No. 37269  
McGAVIN, BOYCE, BARDOT,  
THORSEN & KATZ, P.C.  
9990 Fairfax Boulevard, Suite 400  
Fairfax, Virginia 22030  
Telephone: (703) 385-1000  
Facsimile: (703) 385-1555  
[hbardot@mbbtklaw.com](mailto:hbardot@mbbtklaw.com)  
Counsel for Defendant

**CERTIFICATE OF SERVICE**

I hereby certify that on the 25<sup>th</sup> day of April, 2022, I electronically filed the foregoing pleading with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

Timothy E. Cupp, Esquire  
Shelley Cupp Schulte, PC  
1951 Evelyn Byrd Avenue, Suite D  
PO Box 589  
Harrisonburg, Virginia 22803  
Telephone: (540) 432-9988  
Facsimile: (804) 278-9634  
[cupp@scs-work.com](mailto:cupp@scs-work.com)  
Counsel for Plaintiff

Tim Schulte, Esquire  
Shelley Cupp Schulte, PC  
2020 Monument Avenue  
Richmond, Virginia 23220  
Telephone: (804) 644-9700  
Facsimile: (804) 278-9634  
[Shelley@scs-work.com](mailto:Shelley@scs-work.com)  
Co-Counsel for Plaintiff

/s/

---

Heather K. Bardot

VSb No. 37269

McGAVIN, BOYCE, BARDOT,

THORSEN & KATZ, P.C.

9990 Fairfax Boulevard, Suite 400

Fairfax, Virginia 22030

Telephone: (703) 385-1000

Facsimile: (703) 385-1555

[hbardot@mbbtklaw.com](mailto:hbardot@mbbtklaw.com)

Counsel for Defendant